1353.

SUPREME COURT OF THE UNITED STATES.

No. 156.

THE UNITED STATES, PLFF'S IN ERROR,

vs.

THE CITY BANK OF COLUMBUS.

IN ERROR TO THE CIRCUIT COURT U. S. FOR THE SOUTHERN DISTRICT OF OHIO.

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Pleas begun and held at the United States court-rooms in the city of Cincinnati, on the third Tuesday in the month of April, being the twenty-first day of that month, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States of America the eighty-first, before the honorable John McLean and the honorable Humphrey H. Leavitt, judges of the circuit court of the United States within and for the southern district of Ohio. Among other proceedings had were the following, to wit:

THE UNITED STATES OF AMERICA
vs.
THE CITY BANK OF COLUMBUS. } In assumpsit.

Be it remembered, that heretofore, to wit, on the first day of March, in the year of our Lord one thousand eight hundred and fifty-three, the United States of America, by Messrs. Mason, Ewing, Smith, & Corwine, their attorneys, declared in the court here against the said City Bank of Columbus, in the words and of the tenor following, to wit:

Declaration.

UNITED STATES,
State of Ohio, ss.

In the United States Circuit Court for the State of Ohio, Spring Term, 1853.

The United States of America, the plaintiff in this suit, complains of the City Bank of Columbus, an incorporated company doing business in the State of Ohio, under and by virtue of a charter granted by the State of Ohio, defendant, &c., of a plea of assumpsit, for that whereas, heretofore, to wit, on the 18th day of November, 1850, at Washington city, in the District of Columbia, to wit, at the State of Ohio, the said City Bank of Columbus contracted with the plaintiff to transfer the sum of one hundred thousand dollars, money of said plaintiff, from New York to New Orleans, to be deposited in the Treasury of the United States at New Orleans by the first day of January, 1851, and the said defendant then and there received from the said plaintiff the said sum of one hundred thousand dollars; and in consideration thereof, the said defendant then and there undertook and promised the said plaintiff to transfer and deliver the said sum of money to the treasury of said plaintiff in New Orleans by the first day of January, 1851, free of charge. Nevertheless the said defendant did not transfer the said sum of money from New York to New Orleans by the first day of

January, 1851, nor at any other time, but on the contrary thereof the said defendant converted the said sum of money to her own use; by means whereof the said defendant became liable to pay the said plaintiff the said sum of money when she should be thereunto afterwards requested. And also for that, whereas the said defendant heretofore, to wit, on the first day of January, 1851, at the said State of Ohio, was indebted to the said plaintiff in the sum of one hundred and fifty thousand dollars, for so much money before that time had and received by the said defendant to and for the use of said plaintiff, and at the said defendant's special instance and request; and being so indebted the said defendant, in consideration thereof, then and there undertook and promised the said plaintiff to pay the said sum of money whenever she should be thereunto afterwards requested. Nevertheless the said defendant, although often requested so to do, has not paid the said plaintiff the said several sums of money in said first and second count specified, or any part thereof, but to pay the same and every part thereof the said defendant has hitherto wholly failed and refused, and the same and every part thereof remains wholly due and unpaid, to the damage of said plaintiff of two hundred thousand dollars; hence this suit is brought.

MASON, EWING, & SMITH, & CORWINE,
Att'ys for Pl'ff."

Continuance.

And afterwards, to wit, at the April term of said court, in the year last aforesaid, this cause was continued.

Order.—Rule to plead.

And afterwards, to wit, at the October term of our said court, begun and held on the third Tuesday in the month of October, being the eighteenth day of that month, in the year of our Lord one thousand eight hundred and fifty-three, being the term to which this cause was continued, at this same term, to wit, on the nineteenth day of October, the parties, by their attorneys, appear, and on motion of the defendant, by Mr. Stanberry, her attorney, this cause is continued; and on motion of the district attorney, on behalf of the plaintiff, the defendant is ruled to plead within sixty days from the adjournment of this court."

Plea.

And afterwards, to wit, on the eleventh day of January, in the year of our Lord one thousand eight hundred and fifty-four, came the said City Bank of Columbus, by Messrs. Stanberry & Swan, & Andrews, her attorneys, and filed in the clerk's office

of said court her plea to the foregoing declaration, in the words and of the tenor following, to wit:

"THE CITY BANK OF COLUMBUS
ads.
THE UNITED STATES OF AMERICA.

U. S. C. Court, district of Ohio.

And the said City Bank of Columbus, defendant, comes and defends, &c., and says that said defendant did not assume and promise in manner and form, as said plaintiff hath declared, against said defendant, and of this said defendant puts itself upon the country, and the said plaintiff doth the like.

By H. STANBERRY AND SWAN & ANDREWS,
Att'ys for Def'dt."

Order.—Continuance.

And afterwards, to wit, at the April term of said court, in the year last aforesaid, this cause was continued."

Order.—Leave to amend plea.

And afterwards, to wit, at the October term of our said court, begun and held on the third Tuesday of October, being the seventeenth day of that month, in the year of our Lord one thousand eight hundred and fifty-four, being the term to which this cause was continued, at this term, to wit, on the seventeenth day of October, on motion, leave is given the defendant to amend the plea heretofore filed in this case by filing a demurrer to the first count of said declaration; and thereupon said amendment is made accordingly, which amended plea is in the words and of the tenor following, to wit:

Amended plea.

THE CITY BANK OF COLUMBUS
ads.
THE UNITED STATES.

And the said defendant comes and says, as to the said first count in said declaration contained, that the said plaintiff ought not to have his action aforesaid thereof against him, because he says that said first count of said declaration, and the matters therein contained, are not sufficient in law to maintain the action aforesaid, and that he is not bound by law to answer the same. Whereupon he prays judgment, and that the said plaintiff may be barred of his said action thereof against said defend-

ant; and as to the remaining counts of said declaration, said defendant comes, and for plea says, that said defendant did not assume and promise in manner and form, as said plaintiff hath in his said declaration alleged, and of this defendant puts himself upon the country, and plaintiff doth the like.

H. STANBERRY AND SWAN, & ANDREWS,
Att'ys for Def'dt."

Order.

And afterwards, in this same term of October, to wit, on the nineteenth day of October, in the year last aforesaid, in this case come the said parties by their attorneys, and they were heard upon the demurrer filed by the defendant to the first count of the declaration; and the court do thereupon find that the said first count is sufficient, and do overrule the said demurrer; whereupon, on motion of said defendant, leave is given to said defendant to file a plea of the general issue to said first count;" which said plea is in the words and of the tenor following, to wit:

Plea.

THE UNITED STATES OF AMERICA
vs.
THE CITY BANK OF COLUMBUS.

In conformity with the leave of the court given this day, the said defendant comes and defends, &c.; and as to the said first count of said declaration, says that the said defendant did not assume and promise in manner and form as the said plaintiff hath above in said first count declared, and of this the said defendant puts himself upon the country.

HENRY STANBERRY, & SWAN & ANDREWS,
Att'ys for Defendant."

Order.

And afterwards, in this same term of October, to wit, on the twenty-fourth day of October, in the year last aforesaid, on motion of the defendant, and the court being satisfied from the professional statement of Mr. Stanberry, of counsel for the defendant, that there is good ground for the same, it is ordered that this cause be continued until the next term of this court, at the costs of the said defendant."

Order.

And afterwards, to wit, at the April term of our said court, begun and held on the third Tuesday in the month of April,

being the seventeenth day of that month, in the year of our Lord one thousand eight hundred and fifty-five, being the term to which this cause was continued, at this term, to wit, on the thirtieth day of April, "on motion of the plaintiff's attorneys, and by consent of the defendant by its attorneys, it is ordered that this case be set for hearing on Tuesday, the 8th day of May next."

Order.

And afterwards, in this same term of April, to wit, on the second day of May, in the year last aforesaid, on motion to the court, it is ordered that the hearing of this case be postponed from the 8th until the 15th day of May inst."

Order.—Continuance.

And afterwards, in this same term of April, to wit, on the fifteenth day of May, in the year last aforesaid, this day came the district attorney and moved the court to continue this case. And thereupon, the defendant, by its attorney, moved the court that if said cause be continued, the same be done at the costs of the United States. The court upon consideration continue said case, as also the motion as to the payment of costs."

Continuance.

And afterwards, to wit, at the June term of our said court, in the year of our Lord one thousand eight hundred and fifty-five, being the term to which this cause was continued, came the parties, by their attorneys aforesaid, and this cause was further continued.

And afterwards, to wit, at the October term of our said court, begun and held on the third Tuesday in the month of October, being the sixteenth day of that month, in the year of our Lord one thousand eight hundred and fifty-five, being the term to which this cause was continued, at this term, to wit, on the twenty-seventh day of November, in the year last aforesaid.

Jury empannelled and disagreed.

"This day came the parties, by their attorneys, and thereupon came a jury, to wit: Jesse Hildebrand, John Everhard, Ford Sill, John P. Williamson, D. W. Dryden, Andrew Boyd, Samuel Barnett, James Sheward, J. D. Morris, John Henesy, Robert Buckanan, and George Tait, who were duly empannelled and sworn the truth to speak upon the issue joined between the parties; and not being able to agree upon a verdict, were discharged by the court."

Order as to certificate of division.

And afterwards, in this same term of October, to wit, on the twenty-eight day of November, in the year last aforesaid, the following order was made in this case, to wit:

"THE UNITED STATES
vs.
THE CITY BANK OF COLUMBUS, OHIO.

Action of assumpsit pending in the circuit court of the United States for the 7th circuit and southern district of Ohio.

Be it remembered, that on the trial of the issue of non assumpsit to the jury at the present October term, A. D. 1855, of said court, the plaintiff relied upon a contract with the bank founded on the following papers:

1. The following letter written by the cashier of the defendant:

"CITY BANK OF COLUMBUS,
Columbus, Ohio, 26 *October,* 1850.

Hon. THOS. CORWIN,
Secretary of the Treasury, Washington City:

SIR: The bearer, Col. William Miner, a director of this bank, is authorized on behalf of this institution to make proposals for the purchase of U. S. stocks to the amount of one hundred thousand dollars; any arrangement he may make will be recognized and fully carried out by this bank. He is also authorized, if consistant with the rules of the Treasury Department, to contract on behalf of this institution for the transfer of money from the east to the south or west, for the government.

I have the honor to be, sir,
Your ob't servant,
THOS. MOODIE,
Cashier."

2. The following contract:

"W. CITY, 18*th Nov.*, 1850.

This will certify that I have contracted with the U. S. treasury, as the agent of the City Bank of Columbus, to transfer $100,000 from New York to New Orleans, to be deposited in the treasury of the latter named city, by the first day of January, 1851, free of charge. I have in pursuance of said contract, this day received a draft in my own name for $100,000, on the U. S. treasury at New York city, which is to be accounted for on said contract.

WM. MINER."

Upon the production of these papers and proof of their execution, and further proof that said letter was the act of said cashier alone, without the knowledge or sanction of the directory of said bank, before, at the time of or subsequent thereto, but was copied in the letter book of the bank at the time of its execution, a question arose as to the validity thereof, upon which question the judges of this court were divided in opinion.

It is therefore, by the request of both the parties, hereby ordered that the said question be certified to the Supreme Court of the United States, that is to say: "Do said papers so made, constitute a valid contract between the parties to this suit.

It was agreed that the defendant is an independent bank, under the act of the general assembly of the State of Ohio, of 1844–'5, to incorporate the State Bank of Ohio, and other banking companies.

JOHN McLEAN. [SEAL.]
H. H. LEAVITT. [SEAL.]"

Continuance.

And thereupon this cause was continued.

Continuance.

And afterwards, to wit, at the December term of said court, in the year last aforesaid, this cause was continued.

Continuance.

And afterwards, to wit, at the February term of said court, in the year of our Lord one thousand eight hundred and fifty-six, this cause was continued.

Continuance.

And afterwards, to wit, at the April term of said court, in the year last aforesaid, this cause was continued.

Continuance.

And afterwards, to wit, at the June term of said court, in the year last aforesaid, this cause was continued.

Continued.

And afterwards, to wit, at the October term of said court, begun and held on the third Tuesday of October, being the twenty-first day of that month, in the year last aforesaid, being

the term to which this cause was continued; at this term, to wit, on the fourteenth day of November, came the parties by their attorneys aforesaid, and on motion to the court and by consent of parties, it is ordered that this cause stand continued until the next April term.

And afterwards, to wit, at the April term of our said court, begun and held on the third Tuesday in the month of April, being the twenty-first day of that month, in the year of our Lord one thousand eight hundred and fifty-seven, being the term to which this cause was continued; at this term, to wit, on the twenty-second day of April, "the following mandate from the Supreme Court of the United States in this cause was received, and ordered to be filed and entered, that is to say:

Mandate.

UNITED STATES OF AMERICA, *ss.*

The President of the United States of America, to the honorable the judges of the circuit court of the United States for the ——— district of Ohio, greeting:

[SEAL.]

Whereas, lately in the circuit court of the United States for the ——— district of Ohio, before you, in a cause between the United States, plaintiff, and the City Bank of Columbus, defendant, wherein the judges were opposed in opinion on a certain point or question, which was certified under the seal of the said circuit court to the Supreme Court of the United States for its opinion, as by the inspection of the transcript of the record of the said circuit court, which was brought into the Supreme Court of the United States agreeaby to the act of Congress in such case made and provided, fully and at large appears.

And whereas, in the present term of December, in the year of our Lord one thousand eight hundred and fifty-six, the said cause came on to be heard before the said Supreme Court, on the said transcript of the record, and was argued by counsel, and it appearing to this court upon an inspection of the said transcript, that no point in the case within the meaning of the act of Congress has been certified to this court. It is thereupon now here ordered and adjudged by this court, that this cause be and the same is hereby dismissed, and that this cause be and the same is hereby remanded to the said circuit court, to be proceeded in according to law and in conformity to the opinion of this court. Feb. 27th."

You therefore are hereby commanded that such further proceedings be had in said cause as according to right and justice, and the laws of the United States ought to be had, the said certificate notwithstanding.

Witness the honorable Roger B. Taney, Chief Justice of said Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and fifty-six.

WM. THOS. CARROLL,
Clerk of the Supreme Court
of the United States."

Verdict.

And now at this day, to wit, on the fourteenth day of May, at the time and place first herein aforesaid mentioned, to wit, at the April term of our said court, in the year of our Lord one thousand eight hundred and fifty-seven, this day came the parties, by their attorneys, and thereupon came a jury, to wit: William Anderson, Alex'r P. Miller, Wm. Collier, Richard Hendrickson, Geo. M. Adams, Aquilla Toland, David Fisher, Jacob Knoop, Geo. C. Miller, Geo. J. Wentworth, John Shillito, and John W. Williamson, who being empannelled and sworn to speak the truth upon the issue joined between the parties, upon their oaths do say, that the said defendant did not assume and promise in manner and form as the said plaintiff, in declaring against the said defendant, hath alleged.

Judgment.

It is therefore considered by the court, that the said defendant go hence without day. Before the jurors in this case withdrew from the bar of the court here, Mr. Ewing, on behalf of the plaintiff, tendered to the court here the following bill of exceptions, which was signed, sealed, and ordered to be made a part of the record in this case, to wit:

Bill of exceptions.

"THE UNITED STATES
vs.
THE CITY BANK OF COLUMBUS.

In assumpsit in the circuit court of the United States for the southern district of Ohio.

Be it remembered, that on the trial of this case before the jury, at April term, A. D. 1857, of said court, the following paper was given in evidence to support the issue on the part of the plaintiff:

"CITY BANK OF COLUMBUS,
Columbus, Ohio, 26 October, 1850.

Hon. THOS. CORWIN,
Secretary of the Treasury, Washington City:

SIR: The bearer, Col. William Miner, a director of this bank, is authorized on behalf of this institution to make proposals for the purchase of U. S. stocks to the amount of one hundred thousand dollars; any arrangement he may make will be recognized and fully carried out by this bank. He is also authorized, if consistant with the rules of the Treasury Department, to contract on behalf of this institution for the transfer of money from the east to the south or west for the government.

I have the honor to be, sir,
Your ob't servant,
THOS. MOODIE,
Cashier.

Which paper was proven to have been signed by the said Thomas Moodie as cashier.

The plaintiff also offered in evidence to the jury a receipt admitted to be signed by the said Wm. Miner, in the words following:

"W. CITY, 1*st Nov.*, 1850.

This will certify that I have contracted with the U. S. treasury, as the agent of the City Bank of Columbus, to transfer $100,000 from New York to New Orleans, to be deposited in the treasury at the latter named city, by the first day of January, 1851, free of charge. I have in pursuance of said contract, this day received a draft in my own name for $100,000, on the U. S. treasury at New York city, which is to be accounted for on said contract.

WM. MINER."

The plaintiff also offered in evidence a paper, of which the following is a copy:

TREASURY DEPARTMENT,
November 1, 1850.

SIR: Be pleased to issue a treasury draft in favor of the assistant treasurer at New Orleans, on the assistant treasury at New York, for $100,000, one hundred thousand dollars; the amount to be placed to your credit on the books of the assistant treasurer at New Orleans.

I am, very respectfully,
THO. CORWIN,
Sec. Treasury."

WM. SELDEN, *T. U. States.*"

The following draft was then read in evidence by the plaintiff to the jury:

"Transfer draft No. 105 for $100,000.

TREASURY OF THE UNITED STATES,
Nov. 1, 1850.

Pay to the order of the assistant treasurer U. S., at New Orleans, one hundred thousand dollars, to be placed to my credit on the books of his office, payable on demand, agreeable to instructions from the Secretary of the Treasury of this date.

W. SELDEN,
Treasurer of the United States.

TO ASS'T TREASURER U. S.,
New York.'

The above transfer draft is authorized.

THO. CORWIN,
Secretary of the Treasury.

On which was endorsed as follows:

The assistant treasurer at New York is hereby authorized to pay the amount of the within draft to William Miner, who has undertaken to transfer the amount to N. Orleans.

THO. CORWIN,
Secretary T. D.

Nov. 1, 1850. W. MINER."

Which draft with its endorsements, was proved to have been delivered to the said William Miner by the Secretary of the Treasury, enclosed in a letter from the Secretary to the said Miner, couched in the following words:

TREASURY DEPARTMENT, *Nov.* 1, 1850.

SIR: Your proposition of this date, to transfer $100,000 from N. York or Philadelphia to N. Orleans, by the first of January next, free of charge to the department, is accepted. You will receive herewith a transfer draft on the ass't treasurer at N. York, in favor of the ass. treasurer at N. Orleans, for $100,000, with the authority endorsed to make the payment at N. York to you.

I am, very respt.,
THO. CORWIN, *Sect.*

WM. MINER, Esq.,
Washington, D. C.

And all of said papers were admitted to have been executed as they purport. To all of which papers and indorsements thereon the defendant objected, but reserved the objection to the instructions of the court to the jury. It was also proved

that the said sum of $100,000 was paid to the said Wm. Miner in person, on said draft, on the 2d day of Nov., 1850.

It was admitted on said trial, that said Thomas Moodie was cashier of said City Bank of Columbus on the said twenty-sixth day of October, 1850, and that said William Miner was a director of said bank; also, that said bank was duly organized as an independent bank under the general banking law of Ohio of 1845.

The plaintiff then called Samuel P. Bishop as a witness, who, being sworn, testified that he was assistant cashier of the Ohio Life Insurance and Trust Company; and the above mentioned letter of Thomas Moodie, dated October 26, 1850, being shown to and read by him, and he interrogated thereto, said witness testified, that he considered the certificate contained in said paper as within the appropriate duty of the cashier, and that it would be, as far as he knew, relied upon as true. On cross-examination, said witness testified, that he did not think the cashier had power to make the appointment of Miner purported in that paper; that in his course of business, he would not think of creating such a power without a resolution of the board of directors; and being asked, if the resolution of the board creating such power ought not be copied and certified? he said that, in his opinion, it ought, in all cases of importance.

The plaintiff also read in evidence by-law No. 14 of said bank, in the words following:

A committee of two shall be appointed every six months to advise with the president and cashier. In their absence, all the ordinary business of the bank may be done by the president and cashier, and if either of them be not present, then by the other alone; but any discount, negotiation, or contract, whether made by the board or the committee, to be done by the consent of all present."

It was in proof by the *minnet* book of the directors, that no meeting of the directors of said bank was held, in consequence of the prevalence of the cholera, during the months of July and August, 1850. The next meeting of the directors held thereafter, which appears on said book, was on the 21st day of September, 1850, and the next meeting thereafter, on the 4th day of November, 1850, at which last meeting the president was not present; and with respect to this, the cashier, Moodie, testified that he, as the clerk of the board, did not always enter the fact of the meeting of the board, except when they transacted important business, and such was proved to be the usage of some other banks in Ohio.

The evidence on the part of the plaintiff being closed, the defendant called C. Stetson, president of the Ohio Life Insurance and Trust Company, who, being shown said letter of Moodie, and interrogated thereto, testified that he did not

think a cashier had power, according to the usage of banks with which he was acquainted, to create such agency as is indicated by said letter.

On cross-examination, being asked whether it was within the power and duty of the cashier to certify what purported to be certified in that letter? he replied that it was, that the cashier was the proper certifying officer of the bank, and that other banks would give credit to such certificate.

The defendant also called R. Buchanan, who, being sworn, testified that he had had long experience as cashier, president, and director of banks, and that according to his knowledge and the usage of banks, the cashier did not possess power to create such agency, without the authority and direction of the board. On cross-examination, being asked whether it was within the power and duty of the cashier to certify what purported to be certified in said letter of Moodie? he replied that it was, according to his experience; that the cashier is the certifying officer of the bank, and that such, his certificate would be received as evidence by other banks to whom the cashier was known.

The defendant also called Mr. Kinney, who, being sworn, testified that he had been teller, cashier, and president of banks for many years, and being shown said letter of Moodie, and thereto interrogated, testified that it was not within the usual power of the cashier to create the agency purported by that paper; that it should be done by a resolution of the board of directors, or by verbal instructions to the cashier by members of the board. On cross-examination, he testified that the cashier was the certifying officer of the bank; that it was his duty and within his power to certify to such fact whether the same had been done by the resolution of the board or on consultation with the members of the board; and that such certificate would be received and acted upon by other banks and bankers.

The said Thomas Moodie, the cashier aforesaid, being sworn in behalf of the defendant, testified that the said letter of the 26th of October, 1850, was written by him without the knowledge of the president or any of the directors of said bank, except said Miner; and the fact of its having been so written was not communicated or made known to the directors or any of them until a claim was made in behalf of the government against the bank in January, 1852.

And all of the persons who at the time of said transaction were directors of said bank, except the said Miner, being also sworn in behalf of the defendant, severally testified that the said Moodie, as cashier, was not authorized by the board or by themselves, as directors, to constitute Miner such agent, and that they had no knowledge of the writing of said letter by the said cashier, and that they never sanctioned the same. It appeared that the letter of said Moodie as cashier was copied into

the letter book of said bank; and it was proved that it was not the usage of this bank or other banks in Ohio for the directors to inspect the letter book of the bank, either as a board or individuals. To this testimony of the cashier and directors so given, the plaintiff objected, but reserved the objection to the charge of the court to the jury. All which evidence, so given and objected to, was claimed and insisted upon by the parties respectively offering the same to be material under the first count of the declaration.

The above recited evidence, together with other evidence given in the case, being closed, and the court having charged the jury, they retired to consider of their verdict. And afterwards, on this 14th day of May, 1857, the jury not being agreed, returned into court for further instructions; whereupon, the court instructed the jury in reference to the contract set up in the first count of the declaration, that if they should find that the said letter of Moodie, the cashier, was his own act, and given without the knowledge or authority of the board of directors, or any of them individually, except the said Miner, and that the agency of the said Miner, therein certified, was not constituted by or known to the said board or the said directors individually, or any of them, except the said Miner, but was the act of the cashier alone; and if they should find that the said Moodie had no powers as cashier except such as belonged to the office of cashier generally, or such as are given by the charter or said recited by-law, or other law or usage of the said bank, that then the defendant is not concluded by said letter, and is not bound by the contract made by Miner as aforesaid, without some subsequent ratification thereof, even though the Secretary, in contracting with said Miner, relied upon it as the act of said bank. To which charge of the said court the plaintiff excepted before the jury retired to further consult upon their verdict, and time was allowed by consent of counsel in open court to prepare this bill of exceptions; and the said plaintiff, by its counsel, prays the court to sign and seal the same, which is done this 11th day of May, A. D. 1857.

JOHN McLEAN. [SEAL.]
H. H. LEAVITT. [SEAL.]

UNITED STATES OF AMERICA,
Southern district of Ohio, ss.

I, William Miner, clerk of the United States circuit court, seventh judicial circuit and southern district of Ohio, hereby certify the foregoing transcript to be truly taken and copied from the record of the proceedings of said court for the April term thereof, A. D. 1857.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Cincinnati, this 3d [L. S.] day of November, A. D. 1857, and in the 82d year of the independence of the United States of America.

WM. MINER, *Clerk.*

THE UNITED STATES OF AMERICA,
Supreme Court of the United States.

To the City Bank of Columbus, greeting:

Whereas the United States of America obtained the allowance of our writ of error to the circuit court of the United States, seventh circuit and southern district of Ohio, directed, to remove into the said Supreme Court, to be holden at the city of Washington, on the first Monday in the month of December next, the record of a certain plaint, process, proceedings and judgment in an action of assumpsit, wherein you, the said City Bank of Columbus, in that action lately recovered against the said United States a judgment for costs, as by the said record in the said circuit court remaining appears, in which said record and proceedings, and also in the rendition of the judgment thereupon, manifest error hath intervened, as by the said United States of America we are informed, and our said writ of error granted, issued and allowed, as aforesaid, for the purpose of correcting the errors aforesaid alleged, if any there be: you are, therefore, hereby commanded and cited, to be and appear before the judges of the said Supreme Court, at the city of Washington, at the next term of said court, to be holden on the first Monday in the month of December next, to have the errors aforesaid corrected, and the judgment of our said Supreme Court thereupon.

Witness the honorable Roger B. Taney, Chief Justice of the United States of America, this seventh day of August, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States of America the 82d.

JOHN McLEAN.

I acknowledge service of the within citation.

HENRY STANBERY,
Att. for City Bank Columbus, Ohio.

OCT. 30, '57.

SUPREME COURT OF THE UNITED STATES.
United States of America, ss:

The President of the United States of America, to the honorable the judges of circuit court of the United States, seventh circuit and southern district of Ohio, greeting:

Because in the record and proceedings, and also in the ren-